



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): James F. Zucherman; Ken Y. Hsu;
Charles J. Winslow; John Flynn
Appln. No.: 09/978,386
Confirm. No.: 4255
Filed: October 16, 2001
Title: CURVED DILATOR AND METHOD

PATENT APPLICATION

Art Unit: 3731
Examiner: Vy Q. Bui

Customer No. 23910

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CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

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Sheldon R. Meyer, Reg. No. 27,660
Signature Date: December 24, 2003

(Attorney Signature)

**STATEMENT OF THE SUBSTANCE OF THE INTERVIEW
UNDER 37 C.F.R. § 1.2**

Mail Stop RCE
Commissioner for Patents
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Sir:

This STATEMENT OF THE SUBSTANCE OF THE INTERVIEW is submitted in compliance with 37 C.F.R. § 1.2 and in response to the INTERVIEW SUMMARY mailed December 9, 2003, and is intended to be a complete and proper recordation of the interview conducted on November 24, 2003.

Remarks

These Remarks are submitted in compliance with 37 C.F.R. § 1.2 and in response to the INTERVIEW SUMMARY mailed December 9, 2003, and are intended to be a complete and proper recordation of the interview conducted on November 24, 2003.

I. SUBSTANCE OF THE INTERVIEW SUMMARY

A. Brief description of the nature of any exhibit shown or demonstration conducted

The interview was conducted telephonically and did not include an exhibit or demonstration.

B. Identification of the claims discussed

As indicated in the APPLICANT INITIATED INTERVIEW REQUEST FORM (Form PTOL-413A faxed to the Examiner prior to the interview), Claim 1 was primarily discussed.

C. Identification of specific prior art discussed

As indicated in the APPLICANT INITIATED INTERVIEW REQUEST FORM (Form PTOL-413A), U.S. Pat. No. 4,592,579 to Burnett.

D. Identification of the principal proposed amendments of the Applicant

No amendments were proposed.

E. General thrust of the principal arguments of the Applicant and the Examiner

The Applicant argued that *Burnett* fails to render Claim 1 obvious because *Burnett* fails to disclose a set of devices for creating and progressively dilating an opening in the interspinous ligament.

F. Other pertinent matters discussed

No other pertinent matters were discussed.

G. Outcome of the interview

Examiner Bui contended that the concept of using a system of multiple devices which are progressively larger is old. Examiner Bui further stated that the claim had a simple structure, and should include one novel feature to distinguish over other the prior art. Applicants' representatives stated that a Request for Continued Examination (RCE) would be filed along with claims directed toward a novel system for opening and dilating an interspinous ligament.

II. CONCLUSION

The Applicant respectfully requests that this STATEMENT OF THE SUBSTANCE OF THE INTERVIEW be entered and that it reflect compliance with 37 C.F.R. § 1.2, which requires that a complete written statement as to the substance of the interview be made of record.

Respectfully submitted,

Date: _____

12/14/03

By: _____

Sheldon R. Meyer
Reg. No. 27,660

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